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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,484	10/15/2001	Ralf Janke	Micronas.6437	1533
7590	04/25/2006		EXAMINER	
Patrick J. O'Shea O'Shea, Getz and Kosakowski, P.C. 1500 Main Street, Suite 912 Springfield, MD 01115				ART UNIT
				PAPER NUMBER

DATE MAILED: 04/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Notification of Non-Compliant Appeal Brief (37 CFR 41.37)</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/977,484	JANKE, RALF	

  

<b>Examiner</b>	<b>Art Unit</b>	
Hal D. Wachsman	2857	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 14 February 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1.  The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2.  The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3.  At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4.  (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5.  The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6.  The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7.  The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8.  The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9.  The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10.  Other (including any explanation in support of the above items):

Please see attached sheet.

  
Hal D Wachsman  
Primary Examiner  
Art Unit: 2857

**Block 10 of the Notification of Non-Compliant Appeal Brief**

- 1.a) Per the Applicant's arguments and request in the STATUS OF AMENDMENTS section of the Appeal Brief filed 2-14-06, the After-final amendment filed 12-14-05 has *been entered*. Because of this, correction is now needed to the CLAIMS APPENDIX section of the Appeal Brief to reflect the amendments made in that after-final amendment.
- b) The Appeal Brief filed 2-14-06 does not contain the section headings "Evidence appendix" and "Related proceedings appendix". If there is no information related to these particular section headings then the word "none" should be used under the heading.
- c) The section entitled "SUMMARY OF CLAIMED SUBJECT MATTER" does not contain a concise explanation of the subject matter defined in each of the independent claims but rather contains a table matching the features of each of the independent claims to their location in the specification. In addition, this section does not refer to the drawings by reference characters.
- d) In the "GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL" section, the Appellant states for example "Whether claims 1-2 are obvious in view of the combined subject matter disclosed in U.S. Patent 5,150,301 to Kashiwabara (hereinafter "Kashiwabara") in view of the alleged admission regarding the prior art ("APA")". However, the grounds of rejection is "Whether claims 1 and 2 are unpatentable under 35 U.S.C. 103 over Kashiwabara et al. in view of the Applicant's

Admissions of the prior art." (see MPEP 1205.02, section (vi)). This same type of problem also occurs with respect to how the grounds of rejections were stated for claim 3, claims 6-8 and claim 9.

e) In the argument section, each ground of rejection must be treated under a separate heading and for each ground of rejection applying to two or more claims, the claims may be argued separately or as a group (see MPEP 1205.02, section vii) and any claim argued separately should be placed under a subheading identifying the claim by number. An example, of a heading as shown in MPEP 1205.02, section vii, is "Rejection under 35 U.S.C. 102(b) over U.S. Patent No. Z". The "ARGUMENT" section of the appeal brief contains no headings but only subheadings such as for example "CLAIMS 1-2" however there is no heading above this subheading. There is a subheading "CLAIMS 6-8" underneath of which states ".....this rejection is moot since independent claim 3 is patentable for at least all the reasons set forth above." However, claim 6 does not depend from independent claim 3 but *depends from claim 2* and claims 7 and 8 each depend from claim 6. In addition, although claims 6-8 have been placed under a separate subheading, these claims were not argued separately as no arguments were presented with respect to the Blossfeld et al. (6,424,143) reference which was used to teach the features of claims 6-8. Similarly, there is a separate subheading for claim 9 underneath of which it states "...this rejection is moot since independent claim 3 is patentable for at least all the reasons set forth above", however as shown above this claim was not argued separately, as no arguments were presented with respect to the Blossfeld et al. (6,424,143) reference which was used to teach the

feature of claim 9. In addition, it is also respectfully noted that also no arguments were presented with respect to the Applicant's Admissions of the prior art as applicable to the 35 U.S.C. 103 rejections of independent claims 1 and 3, no arguments were presented with respect to the Kashiwabara et al. reference as applied to dependent claim 2 under 35 U.S.C. 103 and no arguments were provided with respect to the Vines et al. (5,006,841) reference which was one of the references used in the 35 U.S.C. 103 rejection of claim 3.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hal D. Wachsman whose telephone number is 571-272-2225. The examiner can normally be reached on Monday to Friday 7:00 A.M. to 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 571-272-2216. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the  
Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Hal D. Wachman*  
Hal D Wachman  
Primary Examiner  
Art Unit 2857

HW  
April 18, 2006